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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/982,455	10/23/2001	George J. Just		8730

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GEORGE J. JUST
SUITE 102
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CHICAGO, IL 60647

EXAMINER	
BRITTAIN, JAMES R	
ART UNIT	PAPER NUMBER
3677	

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/982,455

Applicant(s)

JUST, GEORGE J.

Examiner

James R. Brittain

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-17 is/are rejected.
- 7) ☒ Claim(s) 10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: ____

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-7 and 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The following terms lack clear antecedent basis: "the point" (claim 4, line 4); "the outer surface" (claim 4, line 2); "the outer side" (claim 12, line 3; claim 13, lines 3-4; claim 14, line 10; claim 15, line 11); "the inner side" (claim 12, line 2; claim 13, line 2; claim 14, line 9; claim 15, line 10); and "said second firm plate" (claim 11, line 3; claim 13, line 4).

It is assumed that claims 11 and 13 should depend from claim 8 since that claim first introduces the second firm plate. The use "preferably ..." (claim 6, lines 1-2; claim 7, lines 1-2) renders these claims indefinite because it is not clear if the subject matter is being positively claimed or if the scope includes something else that is different. Claim 5 is indefinite because the means has already been described in claim 4 and it is suggested that "further" be inserted after "means". The remaining claims are indefinite because they depend from indefinite claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, and 6 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wheatley (US 2693370).

Wheatley (figures 1-3, 5, 6) teaches magnetic clip structure including a magnetic member 13, 13a, a ferric armature member, A, juxtaposed and magnetically attached to the magnetic member and the base, A, extending beyond the fulcrum 25 formed by the beveled face 25 or the linear protrusion 40 along with the facing depression 31 by which a squeezing force can be inherently applied so as to open the clamping faces.

Claims 1, 2, 7, and 8 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by Japanese publication 2000-343864.

Japanese publication 2000-343864 (figures 1-6) teaches magnetic clip structure including a magnetic member 14, a ferric armature member 12b, 13b juxtaposed and magnetically attached to the magnetic member and the armature portion 13b extending beyond the fulcrum defined by the portion 15 on the second firm plate 12a, 13a and the portion 16 formed as a linear protrusion on the ferric armature member 12b, 13b by which a squeezing force can be inherently applied so as to open the clamping fascies. As to claim 8, the firm plate 12a, 13a is of an approximate like dimension to the ferric armature member 12b, 13b and is of a greater dimension than the magnetic member 14 to the left of the linear protrusion 16.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amann (US 3577583) in view of Wheatley (US 2693370).

Amann (figures 1-3) teaches magnetic clip structure including a first magnetic member 18 and a second member 30 juxtaposed and magnetically attached to the magnetic member 18 and the two connected by firm plates 12, 14 so that a squeezing force on the firm plates 12, 14 forces the magnet to pivot about fulcrum 32 to open. The difference is that it is not stated that one of the magnets is a ferric armature. However, the use of a ferric armature opposite a magnet to provide the clamping function is well known as evidenced by Wheatley (figures 1-3, 5, 6) teaching magnetic clip structure including a magnetic member 13, 13a, and a ferric armature member, A, juxtaposed and magnetically attached to the magnetic member as having sufficient strength and integrity to function as a clamp when the magnet is pivoted about fulcrum 25. It would have been obvious to modify the clip of Amann so that a ferric armature is used in view of Wheatley (figures 1-3, 5, 6) suggesting such structure as in the member, A, opposite pivoting magnet 13 as having sufficient strength and integrity to function as a clamp when the magnet is pivoted about fulcrum 25.

Claims 9 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese publication 2000-343864 in view of Japanese publication 2000-62372.

Further modification of Japanese publication 2000-343864 so that the geometry is circular would have been obvious in view of Japanese publication 2000-62372 (figures 1, 6) teaching that it is conventional to utilize either a rectangular geometry as in Japanese publication 2000-343864 or a circular geometry (figure 6) as a matter of design and to have a surface capable of bearing printed indicia would have been obvious in view of Japanese publication 2000-62372 (figures 1-6).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese publication 2000-343864 in view of Japanese publication 61-137306. Further modification of Japanese publication 2000-343864 so that there is a second magnet fixedly attached to the armature member to allow the clip to be magnetically attached to a ferric surface would have been obvious in view of Japanese publication 61-137306 (figures 1-4) teaching that it is desirable to mount a magnetically actuated clip by a magnetic surface 12 attached to one of the members so that it can be magnetically attached to a ferric surface.

Allowable Subject Matter

Claim 10 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 4, 5, and 10-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Claims 14 and 15 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

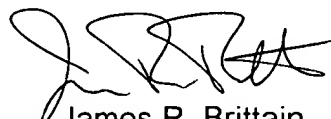
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Japanese publications 2000-318362, 9-213522, 2000-225789, Hebel (DE 2648064), Krapf (US 5425160), Irie (US 4830321), Martinez (US 4829855), and Woods (US 4971278) teach pertinent magnet structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on Monday - Friday from 5:30 to 2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


James R. Brittain
Primary Examiner
Art Unit 3677

JRB
December 16, 2002